

The opinion in support of the decision being entered today is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAN KIKINIS, OLEG BONDARENKO,
VALERY ISSAYEV, and YURI SHTIVELMAN

Appeal 2007-2103
Application 09/387,616
Technology Center 2600

Decided: September 24, 2007

Before KENNETH W. HAIRSTON, ANITA PELLMAN GROSS,
and JAY P. LUCAS, *Administrative Patent Judges*.

GROSS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Kikinis, Bondarenko, Issayev, and Shtivelman (Appellants) appeal under 35 U.S.C. § 134 from the Examiner's Final Rejection of claims 1 through 25, which are all of the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

Appellants' invention relates to a method which allows a home agent to operate away from an associated call center with full call center functionality and resources. See generally Specification 1:9-12. Claim 1 is illustrative of the claimed invention, and it reads as follows:

1. A method for establishing a remote agent station from a call center, comprising the steps of:
 - (a) establishing a data link between a computer platform at the remote agent station and a CTI processor connected to a telephony switch at the call center;
 - (b) determining to switch a selected one of the incoming calls to an agent at the remote station;
 - (c) retrieving data associated with the selected incoming call from a database at the call center;
 - (d) forwarding the data associated with the selected incoming call to the computer platform at the remote agent station via the data link;
 - (e) placing a call from the call center to a telephone at the remote agent station; and
 - (f) switching the selected incoming call to the remote agent station.

The prior art reference of record relied upon by the Examiner in rejecting the appealed claims is:

Petrunka	US 6,122,364	Sep. 19, 2000
		(filed Dec. 02, 1997)

Claims 1 through 25 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Petrunka.

We refer to the Examiner's Answer (mailed May 30, 2006) and to Appellants' Brief (filed November 23, 2005) for the respective arguments.

SUMMARY OF DECISION

As a consequence of our review, we will affirm the anticipation rejection of claims 1 through 7 and 15 through 25 and reverse the anticipation rejection of claims 8 through 14.

OPINION

Appellants contend (Br. 8) that Petrunka fails to teach the steps of the claims "in the order in which they are recited in the claims." Specifically, Appellants contend (Br. 9) that steps (c) and (d) of claim 1, the steps of retrieving and forwarding data, occur in Petrunka prior to connecting the incoming call to the remote station, steps (e) and (f) of claim 1. Appellants present no further arguments for claim 1. The Examiner (Answer 6) asserts that the forwarding of data in Petrunka occurs at the same time as the connecting of the incoming call to the remote station, and that the simultaneous actions satisfy claim 1 as no particular order is required by claim 1. The only issue for claim 1 is whether the claim requires that steps (c) and (d) occur before the incoming call is connected to the remote station.

In claim 1, step (b) refers to "a selected one of the incoming calls," and step (c) refers to "*the* selected incoming call." Thus, step (b) must occur before step (c). Likewise, step (c) recites retrieving data, and step (d) refers to "*the* data," requiring step (c) to occur before step (d). However, we find no language in steps (e) and (f) that would require that they occur after steps (c) and (d). Further, Appellants disclose (Specification 9:24-28) that a call is placed to the remote station (step (e)) "at the same time data . . . is transmitted to" the remote station. Thus, even Appellants' Specification does not necessitate transmitting data prior to connecting the incoming call

to the remote station. Therefore, we find that claim 1 does not require that steps (c) and (d) occur prior to steps (e) and (f). Since Appellants indicate (Br. 9) that Petrunka does disclose the claimed steps (presenting no arguments to the contrary), and we have found that claim 1 does not require the particular order argued by Appellants, we will sustain the anticipation rejection of claim 1 and its dependents, claims 2 through 7, which were not separately argued.

Regarding claim 8, Appellants contend (Br. 9) that "Petrunka fails to teach the reduced log in procedure or the TAPI- compliant phone." The Examiner does not address these limitations. The second issue before us is whether Petrunka discloses a reduced log-in procedure and the TAPI-compliant phone.

With respect to the TAPI- compliant phone, Appellants do not explain why Petrunka's phone is not TAPI- compliant, and we find no reason why it is not. However, we have reviewed Petrunka, and we find no disclosure of a reduced log-in procedure to renew a connection after being broken. We find no discussion in Petrunka of a broken connection at all. "It is axiomatic that anticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim." *In re King*, 801 F.2d 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1986). *See also Lindemann Maschinenfabrik GMBH v. American Hoist and Derrick Co.*, 730 F.2d 1452, 1457, 221 USPQ 481, 485 (Fed. Cir. 1984). Since Petrunka fails to disclose the claimed reduced log-in procedure, we cannot sustain the anticipation rejection of claim 8 and its dependents, claims 9 through 14.

Appellants present no additional arguments for independent claims 15 and 20. Since neither claim 15 nor 20 recites a reduced log-in procedure, the only limitation argued that we found lacking from Petrunka, independent claims 15 and 20 and their dependents, claims 16 through 19 and 21 through 25, will fall with claim 1. Accordingly, we will sustain the anticipation rejection of claims 15 through 25.

ORDER

The decision of the Examiner rejecting claims 1 through 25 under 35 U.S.C. § 102(e) is affirmed as to claims 1 through 7 and 15 through 25 and reversed as to claims 8 through 14. Accordingly, the Examiner's decision is affirmed-in-part.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

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